

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of----- )  
 )  
PUBLIC UTILITIES COMMISSION ) DOCKET NO. 2006-0425  
 )  
Instituting a Proceeding to )  
Investigate the Issues and )  
Requirements Raised by, and )  
Contained in, Hawaii's Solar )  
Water Heating Pay As You Save )  
Program, Act 240, Session Laws )  
of Hawaii (2006). )  
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ORDER NO. 22974

Filed Oct. 24, 2006  
At 2:45 o'clock P.M.

Karen Higash.  
Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

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Program, Act 240, Session Laws	)	
of Hawaii (2006).	)	
_____	)	

ORDER

The purpose of this investigation is to examine the issues and requirements raised by, and contained in, Hawaii's Solar Water Heating Pay As You Save Program ("SWH Financing Program"),<sup>1</sup> Act 240, Session Laws of Hawaii (2006) ("Act 240"), § 13. Specifically, the commission initiates this investigation to, among other things: (1) determine the time frame of the SWH Financing Program; (2) gather and analyze information to evaluate the SWH Financing Program; (3) review and, if necessary, modify the proposed tariffs submitted by each electric utility; and (4) examine the issues and requirements necessary to implement the SWH Financing Program.

The commission initiates this investigation pursuant to Act 240, Hawaii Revised Statutes ("HRS") §§ 269-6, 269-7, 269-15, and 269-16, and Hawaii Administrative Rules ("HAR") § 6-61-71.

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<sup>1</sup>The commission is aware that PAYS America, a 501(c)(3) nonprofit organization, holds the trademark for Pay As You Save® and PAYS®.

I.

Background

The stated purpose of section 13 of Act 240 is to authorize the commission to implement the SWH Financing Program.<sup>2</sup>

Under section 13 of Act 240, the SWH Financing Program shall:

- (1) Allow a residential electric utility customer to purchase a solar water heating system:

- (A) With no upfront payments; and

- (B) By paying the cost of the system over time on the customer's electricity bill;

provided that the estimated life cycle electricity savings from the solar water heating system exceeds the cost of the system;

- (2) Provide for billing and payment of the solar water heating system on the utility bill;

- (3) Provide for disconnection of utility service for non-payment of solar water heating system pay as you save payments; and

- (4) Allow for assignment of system repayment costs attached to the meter location.<sup>3</sup>

Section 13 of Act 240 requires the commission to "determine the time frame of the [SWH Financing Program] pilot program" and to "gather and analyze information to evaluate the pilot program."<sup>4</sup>

Section 13 of Act 240 also requires that no later than June 30, 2007, each electric utility shall "implement by tariff a

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<sup>2</sup>See Act 204, § 13(a).

<sup>3</sup>See id. § 13(b).

<sup>4</sup>See id. § 13(c).

pay as you save model system program for residential customers that is consistent with [section 13 of Act 240]."<sup>5</sup> In addition, each electric utility shall "provide at least six months prior notice of its proposed tariff to the public utilities commission [('Proposed Tariff Notice Period')]' as prescribed in [HRS §] 269-12(b)."<sup>6</sup> During the Proposed Tariff Notice Period, the commission "shall review the proposed tariff and after a hearing may require modifications to the proposed tariff as necessary to comply with or effectuate the purposes of this section."<sup>7</sup>

## II.

### Discussion

#### A.

### Investigation

The commission is authorized to initiate this investigation pursuant to several statutes. First, the commission is granted broad regulatory authority in HRS § 269-7, which provides, in relevant part:

- (a) The public utilities commission and each commissioner shall have the power to examine into the condition of each public utility, the manner in which it is operated with reference to the safety or accommodation of the public, the safety, working hours, and wages of its employees, the fares and rates charged by it, . . . and all matters of every

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<sup>5</sup>See id. § 13(d).

<sup>6</sup>See id.

<sup>7</sup>See id.

nature affecting the relations and transactions between it and the public or persons or corporations.

. . . . .

- (c) Any investigation may be made by the commission on its own motion, and shall be made when requested by the public utility to be investigated, or by any person upon a sworn written complaint to the commission, setting forth any prima facie cause of complaint.<sup>8</sup>

Similarly, in HRS § 269-6, the commission is broadly vested with "general supervision . . . over all public utilities[.]"<sup>9</sup> More particularly, under HRS § 269-16, the commission is authorized to regulate the rates, charges, and practices of a public utility:

- (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility, or by two or more public utilities jointly, shall be just and reasonable and shall be filed with the public utilities commission. . . .
- (b) No rate, fare, charge, classification, schedule, rule, or practice, . . . shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice as prescribed in section 269-12(b) to the commission and prior approval by the commission for any increases in rates, fares, or charges.<sup>10</sup>

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<sup>8</sup>HRS §§ 269-7(a) and (c) (emphases added).

<sup>9</sup>See also HAR § 6-61-71 (setting forth commission investigatory authority).

<sup>10</sup>HRS §§ 269-16(a) and (b); see also HRS § 269-15.

Finally, as discussed above, the commission is expressly authorized to implement the SWH Financing Program pursuant to section 13 of Act 240.

B.

Named Parties

Since all regulated electric utilities in Hawaii will likely be impacted by the outcome of this investigation, the commission will make Hawaiian Electric Company, Inc. ("HECO"), Hawaii Electric Light Company, Inc. ("HELCO"), Maui Electric Company, Limited ("MECO"), Kauai Island Utility Cooperative ("KIUC"), and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate") parties to this docket.<sup>11</sup>

C.

Preliminary Issues

As stated above, the commission initiates this investigation to, among other things: (1) determine the time frame of the SWH Financing Program; (2) gather and analyze information to evaluate the SWH Financing Program; (3) review and, if necessary, modify the proposed tariffs submitted by each electric utility; and (4) examine the issues and requirements necessary to implement the SWH Financing Program. These are

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<sup>11</sup>The Consumer Advocate is statutorily mandated to represent, protect, and advance the interests of all consumers of utility service and is an ex officio party to any proceeding before the commission. See HRS § 269-51 and HAR § 6-61-62.

preliminary issues for consideration. During the development of the procedural order for this proceeding, the parties (and intervenors and participants, if any) shall have the opportunity to restructure these preliminary issues, or suggest other issues for resolution in this proceeding for the commission's review and consideration.

D.

#### Procedural Matters

Any interested individual, entity, agency, or community or business organization may file a motion to intervene or participate without intervention in this docket in compliance with the commission's rules set forth in HAR Chapter 6-61, Subchapter 4.

The parties (and intervenors and participants, if any) shall develop a stipulated protective order if necessary, and a stipulated procedural order to govern the matters of this investigation for the commission's review and approval within forty-five (45) days of the date of this Order.<sup>12</sup> If the parties (and intervenors and participants, if any) are not able to stipulate, each of them shall file proposed orders for the commission's consideration by such date.

The commission expects all parties (and intervenors and participants, if any) to this proceeding to participate fully in the development of the necessary procedures and issues for the

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<sup>12</sup>The commission will not approve a stipulated procedural order that allows the parties to modify the procedural order by agreement of the parties without commission approval.

orderly conduct of this investigatory proceeding, consistent with all applicable State laws and commission rules and regulations. Moreover, if necessary or appropriate, the parties to this proceeding will be expected to actively participate in a commission hearing or other procedures authorized by State law including, but not limited to, those set forth in HRS § 269-15.6.

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. An investigative proceeding is initiated to examine the issues and requirements raised by, and contained in section 13 of Act 240. Specifically, the commission initiates this investigation to, among other things: (1) determine the time frame of the SWH Financing Program; (2) gather and analyze information to evaluate the SWH Financing Program; (3) review and, if necessary, modify the proposed tariffs submitted by each electric utility; and (4) examine the issues and requirements necessary to implement the SWH Financing Program.

2. The commission, sua sponte, designates HECO, HELCO, MECO, KIUC, and the Consumer Advocate as parties to this investigative proceeding.

3. Any individual, entity, organization, or agency desiring to intervene as a party or to participate without intervention in this proceeding shall file a motion to intervene or participate without intervention not later than twenty (20) days from the date of this Order. Motions to intervene or



participate without intervention must comply with all applicable rules of HAR Chapter 6-61, Rules of Practice and Procedure Before the Public Utilities Commission.

4. Within forty-five (45) days of the date of this Order, the parties (and intervenors and participants, if any) shall develop a stipulated protective order, if necessary, and a stipulated procedural order to govern the matters of this investigation for the commission's review and approval. If the parties (and intervenors and participants, if any) are not able to stipulate, each of them shall file proposed orders for the commission's consideration by such date.

DONE at Honolulu, Hawaii OCT 24 2006.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

By John E. Cole  
John E. Cole, Commissioner

APPROVED AS TO FORM:

Nichole K. Shimamoto  
Nichole K. Shimamoto  
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22974 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Karen Higashi

DATED: October 23, 2006